IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1105 of 2007

Kala .. Petitioner

Vs

1. The Commissioner of Police,
   Chennai Police, Chennai.

2. The Secretary,
   Government of Tamil Nadu,
   Prohibition and Excise Department
   Chief Secretariat,
   Fort St.George, Chennai.

3. The Superintendent,
   Central Prison, Puzhal, Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.T.S.Srinivasan
For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Made by P.D.DINAKARAN,J.)

Aggrieved by the order of detention dated 9.7.2007 made in Memo No.303/BDFGISSV/2007 passed by the first respondent under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) to detain one Ravanan, branding him as a Drug Offender, the petitioner, who is the wife of the detenu, filed the above petition seeking to quash the order of detention and to direct the respondents to produce the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set him at

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liberty.

2. On 9.6.2007, the Sub-Inspector of Police attached to N.I.B., C.I.D., Chennai, found the detenu in possession of a suitcase, which contained 100 gms. of ganja in small polythene packets and 10.750 gms. of ganja in loose. The detenu was arrested and the contraband was seized. On the basis of the report lodged by the Sub-Inspector of Police, a case was registered in Crime No.68 of 2007 on the file of NIB CID, Chennai, for the offence under Section 8(c) r/w 20(b) (ii) (B) of NDPS Act and investigation was taken up. The detenu was produced before the learned VIII Metropolitan Magistrate, George Town, Chennai, who remanded him to judicial custody.

3. The first respondent, taking note of the above case as a ground case and finding that there are two adverse cases of alike nature on the file of P.1 Pulianthope Police Station, viz. in Crime Nos.403 of 2006 and 52 of 2007, having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a 'Drug Offender'.

4. The learned counsel for the petitioner inviting our attention to the FIR and arrest memo, contends that there is no possibility of mentioning the crime number in the memo of arrest showing the time of arrest of the detenu at 9.00 hours on 9.6.2007, when the information itself was received at the police station only at 9.30 hours as per the FIR and therefore, the said discrepancy vitiates the order of detention.

5. We have heard the learned Additional Public Prosecutor on the above point and also perused the materials placed before us.

6. It is seen from the paper book placed before us that in the memo of arrest, found at page 68, the detenu was shown to have been arrested at about 9.00 hours on 9.6.2007 and it also contains the crime number as Cr.No.68 of 2007. But, in the F.I.R. found at page 59, it is stated that the information itself was received at the police station only at 9.30 hours. If that be so, the detaining authority has not applied their mind as to how the crime number of the case could be mentioned in the memo of arrest, when the information itself was received by the police at a later point of time, which, in our considered opinion, vitiates the order of detention.

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In the result, the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

sra

To

1. The Secretary to Government
   Prohibition & Excise Department
   Chief Secretariat, Fort St. George,
   Chennai 9.

2. The Commissioner of Police,
   Chennai Police,Chennai.

3. The Superintendent,
   Central Prison, Puzhal, Chennai.

4. The Joint Secretary to Govt.
Public (Law & Order), Fort St.George,
Chennai-9.

5. The Public Prosecutor
   High Court, Madras.

+1cc to Mr.T.S.Srinivasan, Advocate Sr 66523

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